REMARKS

The Examiner has rejected Claims 1-3 under 35 U.S.C. § 102(b) as being anticipated by Port et al. (U.S. Patent No. 5,243,596), hereinafter referred to as Port. These rejections are respectfully traversed for the reasons set out below.

To anticipate a claim, the reference must teach every element of the claim. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Each and every element of the present claims are simply not found in Port. Claim 1 requires that the "effective serving rate is increased for a time period comprising approximately a round-trip time interval for a packet transmitted in the network". Port fails to teach or suggest this requirement. Instead, Port describes a time interval equivalent to sending a start and a stop packet to other nodes: "If the number of packets waiting in the node to be transferred to the host becomes large, the node automatically formats and transmits a stop packet to every other node in the network. This stop packet conditions the other nodes to mark their local memory cells to indicate that the congested node is unable to receive data packets. Responsive to this entry, the receiving nodes will not transmit data packets to the congested node until a start packet is received and the memory cell for the congested node is cleared. This start packet is sent by the congested node after the congestion on the link to its host processor has been relieved and the number of packets waiting to be sent to the host falls below a preset threshold." (Port. Col. 9, lines 49-60) It will be noted that the congested node sends a start packet only when two conditions are met. First, the congestion on the link to its host processor must be relieved and second, the number of packet waiting to be sent to the host must fall below a preset threshold. Therefore, Port fails to teach or suggest that the "effective serving rate is increased for a time period comprising approximately a round-trip time interval for a packet transmitted in the network." (Claim 1)

Regarding Claims 2 and 3, the Examiner's conclusion that Port teaches an auxiliary storage area that is associated with a physical storage device external to the congested node, is contrary to what Port actually describes. "Finally, each node includes a transfer buffer which holds any packets that may be received from upstream nodes while the node is transferring data to a down-stream node. This transfer buffer normally holds at most one full packet. When the network becomes congested, however, the buffer may be expanded to hold an additional packet." (Port. Col.5, lines 62-68) Figure 3 of Port also illustrates that the auxiliary packet buffer 320 resides within the congested node, rather than external thereto. Therefore, Port fails to teach or suggest an auxiliary storage area associated with a physical storage device external to the congested node.

For at least the foregoing reasons, Claims 1-3 are patentable over Port.

Claim 1 was also rejected under 35 U.S.C. § 102(e) as being anticipated by Lin. This rejection is improper.

The Examiner concedes on Page 3 of the August 27, 2003 Office Action that Lin does not disclose explicitly the time duration for which the buffer size increases. Indeed, Lin states that, "when the network congestion subsides or terminates, the caching server (1) increases the data transfer rate, for example, to a third data rate faster than the first data rate to quickly replenish the downstream caching server with new data segments, and (2) decreases the size of its expandable buffer as the additional data segments are depleted." (Lin. Col.3, lines 18-24) Therefore, the time duration the buffer size increases may be dependent on the data transfer rate, which affects the rate at which the additional data segments in the buffer are depleted. Lin also states the data transfer rate is increased at a pre-determined threshold, "a third data rate faster than the first data rate". Hence, there is no evidence that Lin teaches the presently claimed feature of the "effective serving rate is increased for a time period comprising approximately a round-trip time interval for a packet transmitted in the network" (Claim 1).

Claims 2 and 3 were rejected under U.S.C. § 103(a) as being unpatentable over Lin. These rejections are respectfully traversed for the reasons set out below.

Claims 2 and 3 are dependent on Claim 1, which Lin fails to anticipate. Indeed, as established above, Lin fails even to suggest the concept of increasing an effective serving rate for a time period comprising approximately a round-trip time interval for a packet transmitted in the network as recited in Claim 1. Consequently, because Claims 2 and 3 depend from Claim 1, there can be no conclusion of obviousness with respect to these claims.

In addition, regarding Claim 3, the assertion in the Office Action that Lin teaches that the auxiliary storage area is associated with a physical storage device external to the router is incorrect. Lin fails to expressly disclose an auxiliary storage area for storing packets that would otherwise be stored in a queue at the router and instead discloses that each caching server includes an expandable buffer (Lin Col.4, lines 30-33). Having an expandable buffer is exactly the opposite of having an external storage area. Hence, there is no evidence that Lin teaches or suggests the presently claimed feature of the "the auxiliary storage area is associated with a physical storage device external to the router." (Claim 3)

For at least the foregoing reasons, the present rejections should be removed. If there are any additional fees associated with this communication, please charge Deposit Account No. 02-2666.

Respectfully submitted,
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